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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197014
Party	Defendant RITS, LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

**Nantahala Outdoor Center, Inc., and
Smoky Mountain Outdoors Unlimited, Inc.,**

Opposers;

v.

RITS, LLC,

Applicant.

Opposition No. 92054095

Mark: RAFTING IN THE SMOKIES

Date Filed: April 21, 2010

ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition filed on October 20, 2010, Applicant, RITS, LLC (“Applicant”), with a principal place of business at P.O. Box 592, Gatlinburg, Tennessee 37738, responds as follows:

General Denial

Applicant denies each and every allegation of the Notice of Opposition unless expressly admitted herein.

1. Applicant admits that in U.S. Trademark Application Serial No. 85/019,492 that Applicant or its predecessor(s) has/have used the mark RAFTING IN THE SMOKIES in commerce since at least as early as June 1, 1989. Applicant admits to the remaining allegations of paragraph 1 of the Notice of Opposition.

2. Applicant admits the allegations of paragraph 2 to the extent that Applicant disclaimed the exclusive right to the term “RAFTING” apart from the RAFTING IN THE SMOKIES mark as a whole. Applicant admits the allegations of paragraph 2 to the extent that Applicant claims in U.S. Trademark Application Serial No.

85/019,492 that the RAFTING IN THE SMOKIES mark has become distinctive under Trademark Act Section 2(f), 15 U.S.C. § 1052(f) through Applicant's substantially exclusive and continuous use of the RAFTING IN THE SMOKIES mark in commerce in connection with "providing outdoor recreational services in the nature of rafting" for at least the five years immediately before the date U.S. Trademark Application Serial No. 85/019,492 was filed. The remaining allegations of paragraph 2 of the Notice of Opposition are denied.

3. Applicant admits to the allegations of paragraph 3 of the Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Notice of Opposition and therefore Applicant denies those allegations.

5. Applicant admits to the allegations of paragraph 5 of the Notice of Opposition.

6. The allegations of paragraph 6 of the Notice of Opposition are denied.

7. The allegations of paragraph 7 of the Notice of Opposition are denied.

8. The allegations of paragraph 8 of the Notice of Opposition are denied.

9. Opposers have not provided an averment in paragraph 9. As such, no response is required.

10. The allegations of paragraph 10 of the Notice of Opposition are denied.

11. The allegations of paragraph 11 of the Notice of Opposition are denied.

12. The allegations of paragraph 12 of the Notice of Opposition are denied.

13. The allegations of paragraph 13 of the Notice of Opposition are denied.

14. The allegations of paragraph 14 of the Notice of Opposition are denied.

15. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Notice of Opposition that Opposers and other competitors have used the mark RAFTING IN THE SMOKIES, and similar variations thereof, in connection with rafting services provided in what Opposers characterize as “the Smokies” during the five years immediately before the date U.S. Trademark Application Serial No. 85/019,492 was filed, and therefore Applicant denies those allegations. The remaining allegations of paragraph 15 of the Notice of Opposition are denied.

16. The allegations of paragraph 16 of the Notice of Opposition are denied.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Notice of Opposition and therefore Applicant denies those allegations.

18. The allegations of paragraph 18 of the Notice of Opposition are adamantly denied.

19. The allegations of paragraph 19 of the Notice of Opposition are denied.

20. The allegations of paragraph 20 of the Notice of Opposition are denied.


Affirmative Defenses

21. Opposers fail to state a claim upon which relief may be granted.
22. Opposers claims are barred by the doctrine of waiver, laches, estoppel, and/or unclean hands.
23. Applicant's mark has acquired strong secondary meaning over the course of almost a quarter of a century of continuous use.

Respectfully submitted,

RITS, LLC

By: _____



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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing is being served on counsel of record, by first class mail, postage prepaid, addressed as follows:

Jacob G. Horton, Esq.
Pitts and Lake, P.C.
P.O. Box 51295
Knoxville, TN 37950-1295

Date: July 18, 2012

By: Michael E. Robinson
Michael E. Robinson